

House Bill 463 (AS PASSED HOUSE AND SENATE)

By: Representatives McCall of the 30th, Powell of the 29th, Burns of the 157th, Roberts of the 154th, Lunsford of the 110th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural resources, so as to change certain provisions relating to the Environmental Protection Division of the Department of Natural Resources, the Environmental Advisory Council, duties of the council and its members and the director, procedure for aggrieved persons, and inspections; to change certain provisions relating to certification of locality as local issuing authority, periodic review, procedure for revoking certification, and enforcement actions relative to control of soil erosion and sedimentation; to change certain provisions relating to education and training requirements relative to soil erosion and sedimentation control requirements, required programs, instructor qualifications, and expiration of certification; to provide for regulation and permitting of land disposal sites that receive septic tank waste and rules and regulations relating thereto; to change certain provisions relating to permits from the Department of Natural Resources for land disposal sites that receive septic tank waste and rules and regulations relating thereto; to amend Chapter 2 of Title 31 of the Official Code of Georgia Annotated, relating to the Department of Human Resources, so as to change certain provisions relating to permits from the Department of Human Resources for land disposal sites that receive septic tank waste and rules and regulations relating thereto; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural resources, is amended in Code Section 12-2-2, relating to the Environmental Protection Division, Environmental Advisory Council, duties of the council and its members and the director, procedure for aggrieved persons, and inspections, by revising subparagraph (c)(1)(A) as follows:

"(c)(1)(A) The director shall issue all orders and shall grant, deny, revoke, or amend all permits or variances provided for in the laws to be enforced by the division. The

1 director shall also issue any certification which is required by any law of this state or
2 the United States to be issued by the director, the Department of Natural Resources, or
3 the State of Georgia relating to pollution control facilities or matters. The director shall
4 notify all permit or variance applicants within ~~30~~ ten days of receipt of the application
5 as to the completeness of the application and, if the director finds the same to be
6 incomplete, what specific additional materials the applicant need submit to make the
7 application complete. The director shall notify applicants within ten days of receipt of
8 a completed application as to the name and address of the person assigned to perform
9 the review and the date, time, and location of the application review. The director shall
10 grant or deny any permit or variance within 90 days after receipt of all required
11 application materials by the division, provided that the director may for any application
12 order not more than one extension of time of not more than 60 days within which to
13 grant or deny the permit or variance."

14 SECTION 2.

15 Said title is further amended by revising Code Section 12-7-8, relating to certification of
16 locality as local issuing authority, periodic review, procedure for revoking certification, and
17 enforcement actions relative to control of soil erosion and sedimentation, as follows:

18 "12-7-8.

19 (a)(1) If a county or municipality has enacted ordinances which meet or exceed the
20 standards, requirements, and provisions of this chapter and the state general permit,
21 except that the standards, requirements, and provisions of the ordinances for monitoring,
22 reporting, inspections, design standards, turbidity standards, ~~and~~ education and training,
23 and project size thresholds with regard to education and training requirements shall not
24 exceed the state general permit requirements, and which are enforceable by such county
25 or municipality, and if a county or municipality documents that it employs qualified
26 personnel to implement enacted ordinances, the director may certify such county or
27 municipality as a local issuing authority for the purposes of this chapter.

28 (2) A local issuing authority shall regulate both primary and secondary permittees as
29 such terms are defined in the state general permit. Primary permittees shall be
30 responsible for installation and maintenance of best management practices where the
31 primary permittee is conducting land-disturbing activities. Secondary permittees shall
32 be responsible for installation and maintenance of best management practices where the
33 secondary permittee is conducting land-disturbing activities. A local issuing authority
34 must review, revise, or amend its ordinances within 12 months of any amendment to this
35 chapter.

1 (3) Any land-disturbing activities by a local issuing authority shall be subject to the same
2 requirements of the ordinances such local issuing authority adopted pursuant to this
3 chapter as are applied to private persons, and the division shall enforce such requirements
4 upon the local issuing authority.

5 (b) The districts or the commission or both shall ~~periodically~~ review semi-annually the
6 actions of counties and municipalities which have been certified as local issuing authorities
7 pursuant to subsection (a) of this Code section. The districts or the commission or both
8 may provide technical assistance to any county or municipality for the purpose of
9 improving the effectiveness of the county's or municipality's erosion and sedimentation
10 control program. The districts or the commission shall notify the division and request
11 investigation by the division if any deficient or ineffective local program is found.

12 (c) The board, on or before December 31, 2003, shall promulgate rules and regulations
13 setting forth the requirements and standards for certification and the procedures for
14 decertification of a local issuing authority. The division may periodically review the
15 actions of counties and municipalities which have been certified as local issuing authorities
16 pursuant to subsection (a) of this Code section. Such review may include, but shall not be
17 limited to, review of the administration and enforcement of and compliance with a
18 governing authority's ordinances and review of conformance with an agreement, if any,
19 between the district and the governing authority. If such review indicates that the
20 governing authority of any county or municipality certified pursuant to subsection (a) of
21 this Code section has not administered ~~or~~ enforced, or complied with its ordinances or has
22 not conducted the program in accordance with any agreement entered into pursuant to
23 subsection (e) of Code Section 12-7-7, the division shall notify the governing authority of
24 the county or municipality in writing. The governing authority of any county or
25 municipality so notified shall have ~~30~~ 90 days within which to take the necessary corrective
26 action to retain certification as a local issuing authority. If the county or municipality does
27 not take necessary corrective action within ~~30~~ 90 days after notification by the division, the
28 division ~~may~~ shall revoke the certification of the county or municipality as a local issuing
29 authority.

30 (d) The director may determine that the public interest requires initiation of an
31 enforcement action by the division. Where such a determination is made and the local
32 issuing authority has failed to secure compliance, the director may implement the board's
33 rules and seek compliance under provisions of Code Sections 12-7-12 through 12-7-15.
34 For purposes of this subsection, enforcement actions taken by the division pursuant to Code
35 Sections 12-7-12 through 12-7-15 shall not require prior revocation of certification of the
36 county or municipality as a local issuing authority."

SECTION 3.

Said title is further amended by revising Code Section 12-7-19, relating to education and training requirements relative to soil erosion and sedimentation control requirements, required programs, instructor qualifications, and expiration of certification, as follows:

"12-7-19.

(a)(1) Persons ~~After December 31, 2006, all persons~~ involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on ~~their~~ his or her level of involvement with the process, as developed by the commission in accordance with this Code section and in consultation with the division and the Stakeholder Advisory Board created pursuant to Code Section 12-7-20.

(2) On or after the effective date of this subsection, for each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

(3) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this chapter.

(4) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of this Code section, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall have until December 31, 2007, to meet those educational requirements specified in paragraph (4) of subsection (b) of Code Section 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

(b) No less than the following training programs shall be established:

(1) A fundamentals seminar (Level 1) will be established which provides sufficient training to all participants as to the applicable laws, requirements, processes, and latest means and methods recognized by ~~the~~ this state to effectively control erosion and sedimentation;

(2) An advanced fundamentals seminar (Level 1) will be established which provides additional details of installation and maintenance of best management practices for both regulatory and nonregulatory inspectors and others;

(3) An introduction to design seminar (Level 2) will be established which provides required training to design and review a successful erosion, sedimentation, and pollution control plan;

(4) An awareness seminar (Level 1) will be established which does not exceed two hours in duration and which provides information regarding the erosion and sediment control practices and processes in the state and which will include an overview of the systems, laws, and roles of the participants; and

(5) A trainer and instructor seminar will be established for both Level 1 and Level 2 trainers and instructors which will provide the minimum training as to applicable laws and best management practices and design of erosion, sedimentation, and pollution control plans in ~~the~~ this state.

(c) Trainer and instructor qualifications will be established with the following minimum requirements:

(1) Level 1 trainers and instructors shall meet at least the following minimum requirements and any other requirements as set by the commission:

(A) Education: four-year college degree or five years' experience in the field of erosion and sediment control;

(B) Experience: five-years' experience in the field of erosion and sediment control. Where years of experience is used in lieu of the education requirement of subparagraph

(A) of this paragraph, a total of ten years' field experience is required;

(C) Approval by the commission and the Stakeholder Advisory Board; and

(D) Successful completion of the Level 1 trainer and instructor seminar found in paragraph (5) of subsection (b) of this Code section; and

(2) Level 2 trainers and instructors shall meet at least the minimum requirements of a Level 1 trainer or instructor, any other requirements as set by the commission, and successful completion of the Level 2 trainer and instructor seminar created under paragraph (5) of subsection (b) of this Code section.

(d) In addition to the requirements of subsection (c) of this Code section, the commission shall establish and any person desirous of holding certification must obtain a passing grade as established by the Stakeholder Advisory Board on a final exam covering the material taught in each mandatory seminar: provided, however, that there shall be no final exam requirement for purposes of paragraph (4) of subsection (b) of this Code section. Final exams may, at the discretion of the commission, serve in lieu of attendance at the seminar.

1 Any person shall be authorized to administer a final examination for any seminar for which
2 he or she was the instructor.

3 (e)(1) A certification provided by achieving the requirements established by the
4 commission shall expire no later than three years after its issuance.

5 (2) A certified individual shall be required to attend and participate in at least four hours
6 of approved continuing education courses, as established by the commission, every three
7 years.

8 (3) A certification may be extended or renewed by meeting requirements established by
9 the commission.

10 (4) Revocation procedures may be established by the commission in consultation with
11 the division and the Stakeholder Advisory Board."

12 SECTION 4.

13 Said title is further amended by revising Code Section 12-8-41, relating to permits from the
14 Department of Natural Resources for land disposal sites that receive certain septic tank waste
15 and rules and regulations relating thereto, as follows:

16 "12-8-41.

17 The department shall provide by rule or regulation for the regulation and permitting of any
18 land disposal site that receives septic tank waste from ~~more than one~~ any one or more
19 septic tank pumping and hauling ~~business~~ businesses; provided, however, that no such
20 permit shall be issued except on the written approval of the governing authority of each
21 county in which such site is wholly or partially located; provided, further, that no such
22 approval shall be required if such site was in operation as of July 1, 2002. No such site
23 which was not in operation on January 1, 2002, shall receive septic tank waste on or after
24 July 1, 2002, unless a permit has been issued by the department. Any new permit issued
25 for such type of site on or after July 1, 2007, shall be issued by the department under this
26 Code section. Any such type of site that as of June 30, 2007, operated under a valid permit
27 issued on or before such date by the Department of Human Resources under Code Section
28 31-2-8 may continue to operate under such Code section until July 1, 2012, but a permit
29 shall be obtained from the department under this Code section prior to such date in order
30 to continue such operation thereafter."

31 SECTION 5.

32 Chapter 2 of Title 31 of the Official Code of Georgia Annotated, relating to the Department
33 of Human Resources, is amended by revising Code Section 31-2-8, relating to permits from
34 the Department of Human Resources for land disposal sites that receive certain septic tank
35 waste and rules and regulations relating thereto, as follows:

1 "31-2-8.

2 ~~The Until July 1, 2012, the department shall provide by rule or regulation for the regulation~~
3 ~~and permitting of any land disposal site that receives septic tank waste from only one septic~~
4 ~~tank pumping and hauling business and which as of June 30, 2007, operated under a valid~~
5 ~~permit for such activity as issued by the department under this Code section, provided,~~
6 ~~however, that no such permit shall be issued except on the written approval of the~~
7 ~~governing authority of each county in which such site is wholly or partially located. No~~
8 ~~such site which was not in operation on January 1, 2002, shall receive septic tank waste on~~
9 ~~or after July 1, 2002, unless a permit has been issued by the department. No new permit~~
10 ~~shall be issued by the department under this Code section for such type of site on or after~~
11 ~~July 1, 2007, but instead any new permit issued for such type of site on or after such date~~
12 ~~shall be issued by the Department of Natural Resources under Code Section 12-8-41. This~~
13 ~~Code section shall stand repealed on July 1, 2012.~~"

14 **SECTION 6.**

15 This Act shall become effective upon its approval by the Governor or upon its becoming law
16 without such approval.

17 **SECTION 7.**

18 All laws and parts of laws in conflict with this Act are repealed.